

TOWN COUNCIL/PLANNING WORK SESSION
June 16, 2014

I. CALL TO ORDER

President Trocki called the work session to order at 6:05 p.m. on Monday, June 16, 2014 in the Rosamond A. Tefft Council Chambers of the Jamestown Town Hall at 93 Narragansett Avenue.

II. ROLL CALL

Town Council Members present:

Kristine S. Trocki, President
Mary E. Meagher, Vice President
Eugene B. Mihaly
Blake A. Dickinson

Town Council Members absent:

Thomas P. Tighe

Planning Commission Members present:

Michael Swistak, Chair
Duncan Pendlebury, Vice Chair
Rosemary Enright, Secretary
Michael Cochran
Bernd Pfeiffer
Michael F. Smith

Planning Commission Members absent:

Michael Jacquard

Also in Attendance:

Andrew E. Nota, Town Administrator
Lisa Bryer, Town Planner
Peter D. Ruggiero, Town Solicitor
Wyatt A. Brochu, Town Solicitor
David A. Petrarca, Jr., Assistant Town Solicitor
Cheryl A. Fernstrom, Town Clerk

**III. HISTORIC AND COMMUNITY CHARACTER PRESERVATION:
REVIEW AND DISCUSSION**

President Trocki stated the intention of this joint session is to have an open discussion. If there is time, the public will be allowed to comment. President Trocki noted we are here because this is a process, no determinations have been made to date, and no regulations have been adopted or decisions made. This is a discussion of where the Planning

Commission is in this process, which is working, as so many of our citizens and town staff members are participating. We want to outline what is working, what is not, what we are trying to achieve, what have achieved, where we are going, and if we have the community's support. Vice President Meagher referenced Chair Swistak's memo available for attendees along with the agenda, as well as on the town website.

- A) Memorandum from Planning Commission Chair Swistak – Status Report.
- B) Amendments to Article 11 of the Zoning Ordinance.
- C) Temporary Moratorium.

Planning Chair Swistak stated the Planning Commission requested this joint session as Council feedback was needed so that everyone is on the same page, and we realized this process would take longer than originally expected. The 2009 Zoning Ordinance adoption was a significant revision and contained language for regulation of historic properties. The demolition permit application for a property on Holmes Court made it clear to the Commission there was a problem. Per today's regulations, that demolition permit should have come before the Planning Commission for review and approval. Building Official Fred Brown found the Zoning Ordinance language (regarding historic properties) ambiguous and unenforceable. The language needs to be revised, and that is why Council asked the Planning Commission to fix it as part of their function.

Today's ordinance has a definition of buildings of value as: "Buildings identified in Historic and Architectural Resources of Jamestown, RI by the RI Historical Preservation and Heritage Commission, 1995 (the "Purple Book"). Also, buildings of similar age, style, and architectural character shall be determined to be buildings of value." The Zoning Ordinance Sec. 82-1105 C reads: "Any addition to or modification of a building of value that has been designated as such or to a building actually or potentially eligible for inclusion on a state, local or national historic register, shall be subject to approval by the Jamestown Planning Commission." Vice President Meagher stated that was the area mentioned in reference to the demolition on Holmes Court.

Mr. Swistak stated the trigger for enforcement occurs once the listing in the "purple book" is identified on a zoning map, which has not happened. This is not new material and has been in the Code since 2009. Planner Bryer stated when the Zoning Ordinance was adopted this was recognized as a placeholder to come back to at a later date. Mr. Swistak referenced the parallel discussion about historic districts and Shoreby Hill, and during that discussion Planning put aside the Zoning Ordinance revision as the Historic District Ordinance, if adopted, could have an impact on the buildings of value. Councilor Dickinson commented if the Shoreby Hill Historic District Ordinance had passed we would have the same issues we have right now trying to get people to comply with the Zoning Ordinance. Mr. Swistak stated we are back to square one, with a Zoning Ordinance that needs to be fixed. He wrote this memo personally and Planning has not met since it was written. Mr. Swistak stated this issue goes back to 2008. A lot of people feel any new regulation is an over-step by local government on their property rights and civil liberties. Our job is difficult and complex.

President Trocki thanked the Town Planner, Planning Commission and town staff, as this was not an easy process. When the Moratorium was adopted in December, it was thought the process would be more expeditious. Planning is looking for more Town Council direction, more time is needed, and the Council is not trying to force regulation on the public they do not want. We must define what is needed and include public input in the process, realizing we will never have 100% approval. Mr. Swistak stated we are so early in the process that we didn't understand what a building of value was. That determination begins with the "purple book", the best tool for an objective document. To fix the Ordinance we have to define its intent and evaluate its validity and usefulness, and this may take up to a year, as input from everyone is needed. The discussion takes place the 1st and 3rd Wednesday of each month at the Planning Commission meetings for as long as it takes.

President Trocki stated ideas are being discussed, there is advice from legal counsel, this is a detailed process, and we are not coming to an easy decision any time soon. Council needs to reevaluate the Moratorium as it was put in place to give time to complete the Ordinance, and this is taking an extended period of time. She is curious to hear what other commissioners want to do. Rosemary Enright commented on the "purple book", which has a lot more houses listed in it than the town's list. The Commission took the Village Special Overlay District, 82-1105 only applies to the village district, and we are not talking about the entire Island. The list you see contains the homes listed in the "purple book" located in the village district. The "purple book" helped define and determine the buildings of value. Discussion continued. Vice President Meagher commented the specificity of people's addresses makes people nervous and think the process is very defined. It is not, and it is important to note this is a discussion.

Councilor Mihaly commented there are two issues - which buildings are the focus of the regulations, and what kind of process and regulations are we thinking about. Vice Chair Duncan Pendlebury commented the Planning Commission prepared guidelines and had discussion on the proposed language for a couple of years. In each of them we worked with an overlay of enabling legislation from the state to provide what we can and can't do in creating ordinances. In the Historic District enabling legislation there are guidelines and each town interprets them differently. Planning was trying to make something easy for people to use, because the Zoning Code currently has no process for a building of value. An owner of one had no way of knowing what to do. We chose a model we thought was easy to work with and made something with a lot of options to work with, to be realistic, and still maintain a character design element of these buildings of value. The guidelines would give everyone an understanding of what they need to do and give the Building Official, Technical Review Committee, or Planning Commission guidelines to go through the process and make judgments on the completeness of the application. We tried to fill that in as part of the fix to 82-1105. Vice President Meagher commented when the property in Shoreby Hill was torn down and went before Technical Review there was no clear process that outlined what should be done. Vice Chair Pendlebury stated there is no clear process in the Zoning Code; we need to make the process clear for the applicant

so the process can be fluid and easy to accomplish. President Trocki commented the process was begun but nothing is being proposed. The public is asking for more education than regulation, and she sees those guidelines as an educational piece of this process. It can be confusing when appearing before the Building Official. Vice Chair Pendlebury stated they are only trying to help people understand the reason why the process follows the steps it does. Vice President Meagher commented that the area under discussion is from Hamilton Avenue to the Golf Course, and how can we retain the village character – what is the baseline level that will help us retain character of this village, the area people are concerned about. Mr. Hollister’s letter was referenced. How do we regulate what we all treasure? She was surprised to hear citizens feel they are operating out of fear, she understands that fear, and we need to operate in a forum not based on fear. To what extent can we regulate this; specificity can be arbitrary. We need to step back and recognize what the problems are we are trying to solve, and there are multi-layers to this.

Councilor Mihaly stated it is easy to grasp the Point in Newport. But Jamestown is architecturally diverse, and trying to figure out how we deal with aesthetic issues with such diversity is difficult. Has the Planning Commission found any models informative for our needs? Chair Swistak stated no. Vice President Meagher commented in talking about buildings, you know when something important gets knocked down, and she commended Planning for engaging in this discussion. Councilor Mihaly stated the level of caring is very high, and there are buildings of quality and diversity we hope to preserve for many years; the task is difficult. Chair Swistak commented if we can’t fix 82-1105, we will tell the Council. Commissioner Smith stated either fix 82-1105 or get rid of it. To fix it, we must continue the discussion. If we proceed, we must be very specific in our regulations. We will whittle that list down from 96 to a smaller number, and there may be some injustice. Why should people who buy buildings of value have different regulations put upon them? We will have to give them some incentives. He has been here since 1953 and seen many changes and many buildings disappear. We need to decide as a community how to address the changes.

Councilor Dickinson repeated that 82-1105 needs to be fixed. He is grappling with what is broken; that is unclear. People are here to talk about the village district overlay and the Zoning Ordinance enacted in 2009, and we agree the village character should be retained. We have an ordinance that may not be supported, people have an issue with how this is being done, and we all have a view of what Jamestown should look like. If we want this done and want success, we need to ask how we do it. We need to regroup and revisit our half of the partnership. We all have an opinion on how Jamestown’s character can be retained. We are not going to get there the way we are going now.

Chair Swistak disagreed. We are listening carefully to everyone’s opinion including negative feedback on too much regulation. We have heard that 99% this will turn out ok as the owners of such properties hire the right architects and contractors. President Trocki stated we knew this would be discussed at every Planning Commission meeting, and people saying they didn’t have notice is difficult to hear. This is an ongoing topic and we

have asked people to come out and hear the process and comment. It sounds like we need more time for discussion to continue. Planning has done an excellent job hearing diverging opinions. The public may have the solution we are seeking, but if they don't engage and share the ideas, it won't define or help solve the problem, and we won't move forward.

Vice President Meagher asked Councilor Dickinson what he meant by we wouldn't get there this way. Councilor Dickinson commented his suggestions were to bring us to our goals to preserve Jamestown. He was suggesting it would make sense for us to reach out to people with preserved homes. If the goal is preservation in Jamestown, let us work with the people who have done it successfully. Vice President Meagher commented in 2009 there was an extensive process that talked about these issues. It wouldn't have happened if there wasn't an impetus to do so. The devil is in the details, and that is difficult, which Planning discovered. The process by Vice Chair Pendlebury was amazing, and Chair Swistak has run the meetings very well.

Planner Lisa Bryer explained in 2006 the Planning Commission recognized we had a very special village and in many ways the perfect planned community. There was recognition that the development plan review process in place for commercial development plans lacked guidance for both the applicant and Planning Commission. The Planning Commission decided the village was important, and decided to have a series of meetings to identify where we are today and where we want to be in the future. Planning crafted over 20 meetings from Sunday to Friday, hired a consulting team to help, and engaged the public in a meaningful way. Everyone who wanted input was able to speak. The consultants worked out what we have now, the process was successful, and people still speak positively of it. The idea of fixing East Ferry came out of that process. The result was form-based Zoning rather than the normal use-based Zoning. It cared about structures and the DNA of our village. What's on the street was more important than what is in the buildings and the form is the primary focus.

Councilor Mihaly noted when the lower Shoreby proposal came in, he was struck by the fact it was a bottom up proposal; bottom up is very important. We have heard much unhappiness on what people think might be in the process. We are small enough so that a lot of people should be stating what they think the end result should be. Give your ideas to the Planning Commission; we have many difficult issues and everyone should be heard. Chair Swistak stated that process has been happening and sometimes it is outside of this room. A lot of people have come forward with their better idea how to fix this. President Trocki cautioned folks not to spread fear or misinformation. Let's collectively think about this and come up with the best solution. It is important to give the process its due time. This is ultimately something we must be comfortable with and we want it to be sound and make sense. We want it to be from the bottom up, and we are not afraid to make tough recommendations. This is a long-term vision we are trying to protect and it may have some painful steps in the process.

Chair Swistak stated there are three issues:

- 82-1105 needs to be fixed. We will end up with no process, an educational process, or a regulatory process, or a hybrid process.
- The Zoning Ordinance is not very strong on what happens when there is a demolition permit request. It is one thing to modify or change a house and another thing to demolish a structure. If someone wants to demolish a building, the neighbors need some advance notice. There should be some level of uniform review that currently is not in place.
- Moratorium. How we got there. Fred Brown issued the demolition permit for Holmes Court without sending it through the review process, which was his right and his interpretation. Fred's determination not to send the demolition permit through the review process was challenged. We needed to put the brakes on or the Town could have been in a precarious spot if there were additional demolition permits submitted and approved without going through the process.

This is more complex than it was originally thought. President Trocki will open discussion to the public, but we only have 15 minutes. The topic of the Moratorium will be put at the beginning of the regular Council agenda after the Citizen Police Academy Presentation to continue the discussion as needed.

Public Comment:

Victor Bell of Ocean Avenue stated he lives and works in the downtown area. He respects how difficult this is for Council and Planning. The "purple book" is 20 years old and may not be relevant; just because something is old does not mean it is significant, and a house being picked out as a building of value because it comes from a 20 year old book is not appropriate. We are looking for appropriate scale and function, not necessarily historic or age factors.

Joe Jachinowski of Alden Road stated there are three things he has to say - need, fairness, and cost. What is the need? We got here without regulation. Fairness; how can one look objectively at structures and pick which one would be on the list? There are buildings of value surrounded by buildings that are not – they can do anything, and I can't. Cost – cost of compliance is high to meet the guidelines. Destruction of value - what happens to those properties with the buildings of value designation and the restrictions placed on them and what that means to their resale values. Vice President Meagher commented when a property is randomly designated as a building of value that may have a negative effect on resale.

Steve Frary of Bay View Drive and Walcott Avenue stated it is important for us to talk about historic preservation as a goal. He is very encouraged by tonight's discussion. The Council and Planning Commission have listened, and there is a process in place to find the right solution. While there is controversy, we share common goals to find that common ground. People who own these properties have already made significant investments and burdening them with additional costs may not be fair, and he agrees with the idea of incentives; positive reinforcement works better than rules. He invites everyone

on the Council and Planning Commission to visit 105 Walcott to see renovations that were unencumbered by regulations.

An unknown audience member asked how to contact the Council and Planning Commission. President Trocki stated all Council members' email addresses are on the Town website. They would be glad to forward anything to the Planning Commission. Also, Town Administrator Nota and Town Planner Bryer are available for an appointment. She is also available by appointment.

Laura Vetter of East Shore Road stated her home is in the north end and listed in the "purple book." What are the implications for people in the north end? The Council stated they don't have an answer at this time. She lives in a distinguished house, but the current discussion is on the village district. Chair Swistak stated this is an open topic and the Planning Commission discussion also noted this should be Island-wide, so stay involved.

Tom Swift of Emerson Road urged the Council and Planning Commission not to over react to what appears to be a single incident – the demolition of the building on Holmes Court. The people who own such buildings do so because we like them, and we wouldn't do anything to destroy them, and have in fact enhanced them. Don't over react.

President Trocki expressed appreciation for everyone's comments and invited everyone present to stay for the Town Council Meeting for the Moratorium discussion following the Citizen Police Academy presentation.

IV. ADJOURNMENT

Planning Commission.

A motion was made by Michael Smith with second by Berndt Pfeiffer to adjourn. Chair Swistak, Aye; Vice Chair Pendlebury, Aye; Secretary Enright, Aye; Commissioner Cochran, Aye; Commissioner Pfeiffer, Aye; Commissioner Smith, Aye;

Town Council.

There being no further business to conduct, the joint Town Council and Planning Commission work session was adjourned at 7:28 p.m.

Attest:

Cheryl A. Fernstrom, CMC, Town Clerk

Copies to: Town Council (5)
 Town Administrator
 Finance Director
 Town Solicitor